

Notice of Allowability

Application No.

10/811,183

Examiner

William L. Miller

Applicant(s)

DARST ET AL.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 08-28-2006.
2. ☒ The allowed claim(s) is/are 1-12 and 21-26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060927.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's previously unentered amendment filed on 07-11-2006 has been entered. Claims 1-12 and 21-26 are pending.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gregory Howison on 09-27-2006.

The application has been amended as follows:

In the claims:

Claim 1, line 1, change "containing" to --burying--;

Claim 1, line 2, change second recitation of "a" to --the-- and change "may be" to --is adapted to be--;

Claim 1, line 6, delete "substantially";

Claim 1, line 7, change ";" to --and at the time of such placement, the opening comprising the majority of the surface area of the lower panel--;

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Claim 7, line 2, after "opening" insert --through which the body is adapted to be placed into the enclosure--;

Claim 7, line 3, after "opening" insert --formed--;

Claim 7, lines 3-4, delete "as a bottom thereof";

Claim 7, line 5, delete "substantially";

Claim 7, line 6, after "placement" insert --, the central opening comprising the majority of the surface area of the lower panel--;

Claim 12, line 1, change "provides" to --defines--;

Claim 21, line 2, after "opening" insert --through which the body is adapted to be placed into the enclosure--;

Claim 21, line 3, after "opening" insert --formed--;

Claim 21, line 4, change "a" to --the--;

Claim 21, line 5, delete "substantially"; and

Claim 21, line 6, change ";" to --and at the time of such placement, the opening comprising the majority of the surface area of the lower panel--.

3. The following is an examiner's statement of reasons for allowance: The applicant's arguments regarding previously applied Turner (US#2356957) are persuasive.

4. Regarding claim 1, Blunt (US#4099353) represents the closest prior art of record. Blunt discloses a burial container 14 capable of containing a body, comprising: a container body 16

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defining an enclosure and an upper opening through which a body can be placed; and a lower panel 15 having an opening(s) 18 capable of permitting communication of earth into the enclosure such that the body will be in direct contact with the earth when the body is placed in the enclosure and at the time of such placement. However, the opening(s) 18 in the lower panel 15 does not comprise the majority (i.e. more than 50%) of the surface area of the lower panel, and there is no motivation to modify Blunt to cure this deficiency. Claims 7 and 21 include the same allowable subject matter and are therefore allowable for at least the same reason.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068.

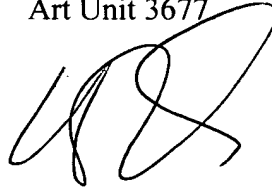
The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William L. Miller
Primary Examiner
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A handwritten signature in black ink, appearing to be 'WLM', written over the printed name and title.

WLM